

IN THE SUPREME COURT OF PENNSYLVANIA


In the Matter of : No. 2458 Disciplinary Docket No. 3
: :
DOUGLAS M. MARINOS : No. 42 DB 2018
: :
: Attorney Registration No. 53104
: :
PETITION FOR REINSTATEMENT : (Lehigh County)

ORDER

PER CURIAM

AND NOW, this 22nd day of August, 2023, the Petition for Review and the Petition for Reinstatement are denied. Petitioner is ordered to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement. See Pa.R.D.E. 218(f).

A True Copy Nicole Traini
As Of 08/22/2023

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 2458 Disciplinary Docket No. 3
: :
: No. 42 DB 2018
DOUGLAS M. MARINOS : :
: Attorney Registration No. 53104
: :
PETITION FOR REINSTATEMENT : (Lehigh County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 218(c)(5) of the Pennsylvania Rules of Disciplinary Enforcement, The Disciplinary Board of the Supreme Court of Pennsylvania submits its findings and recommendations to your Honorable Court with respect to the above captioned Petition for Reinstatement.

I. HISTORY OF PROCEEDINGS

By Petition for Reinstatement filed on January 3, 2022, Petitioner, Douglas M. Marinos, seeks reinstatement from the Supreme Court's December 3, 2019 Order granting the Joint Petition in Support of Discipline on Consent and suspending Petitioner for four years, retroactive to May 3, 2018. Petitioner's suspension resulted from his January 18, 2018 conviction of one felony count of willful failure to collect and remit his

law firm's federal tax obligations for which he was personally responsible in violation of 26 U.S.C. § 7202, in the matter captioned *United States of America v. Douglas Marinos*, 5:17-cr-00610 United States District Court for the Eastern District of Pennsylvania. On March 1, 2022, Office of Disciplinary Counsel ("ODC") submitted its response to the Petition, advising it had concluded its investigation and was reserving its right to review whatever testimony and/or evidence Petitioner presented to meet his burden before taking a final position on the Petition.

A prehearing conference was held on April 5, 2022, where deadlines were set for identifying and exchanging exhibits and witness information. On June 13, 2022, Petitioner filed an Unopposed Motion for Protective Order regarding the sentencing transcript (ODC-2), and on that same date, the Hearing Committee Chair issued the protective order.

On June 21 and June 22, 2022, the Committee conducted a reinstatement hearing. At that time, the parties formally agreed on the record to proceed with a two-member Committee panel as the third member was unable to participate for medical reasons. Petitioner appeared pro se, presented the testimony of eight witnesses and testified on his own behalf. Petitioner introduced Exhibits P-1 through P-36 without objection. In addition to cross-examining Petitioner's witnesses and Petitioner, ODC presented the testimony of two witnesses and introduced Exhibits ODC-1 and ODC-6 through ODC-46 without objection. The Committee overruled Petitioner's objection to ODC-2 and admitted into evidence the sentencing transcript from the criminal matter.

On August 15, 2022, Petitioner filed a post-hearing brief to the Committee and requested that the Committee recommend to the Board that his Petition for Reinstatement be granted. On September 16, 2022, ODC filed a post-hearing brief to the Committee and requested that the Committee recommend to the Board that Petitioner's reinstatement be denied. By Report filed with the Board on December 15, 2022, the Committee concluded that Petitioner had not met his burden and recommended that the Petition for Reinstatement be denied.

On February 6, 2023, Petitioner filed a Brief on Exceptions to the Committee's Report and recommendation and requested oral argument before the Board. ODC filed a Brief Opposing Exceptions on March 16, 2023. A three-member panel of the Board held oral argument on April 5, 2023. The Board adjudicated this matter at the meeting on April 19, 2023.

II. FINDINGS OF FACT

The Board makes the following findings:

Petitioner's Professional Background as an Attorney

1. Petitioner is Douglas M. Marinos, born in 1961 and admitted to the bar of the Commonwealth on November 9, 1988. (ODC-1, Question No. 1(e); N.T. 6/22/22, p. 30; ODC- 1, Question No. 2(b)).
2. In 1995, Petitioner opened the Law Firm of Douglas M. Marinos P.C. (later changed to CPMMD, P.C.). Afterward, Petitioner formed a new law firm, the Law of Business, P.C. (the Law Firm of Douglas M. Marinos P.C., CPMMD, P.C. and

the Law of Business, P.C. are collectively referred to as the “law firm”). (ODC-1, Question No. 2(d); ODC-1, Question No. 18; ODC-1, Joint Petition at Paragraph 5).

3. Petitioner was the sole owner, principal, and shareholder of the law firm and was the sole person with control over the finances; he was personally responsible for ensuring that the law firm's federal tax obligations were met and that the law firm's tax returns were timely filed. (ODC-1, Joint Petition at Paragraphs 5 and 7).

Petitioner’s Criminal History, Incarceration, and Disciplinary Action

4. On a monthly basis beginning approximately the second half of 2008 through at least 2017, Petitioner purposefully failed to collect and file IRS federal payroll taxes, including Social Security and Medicare Trust fund contributions required under the Federal Insurance Contributions Act (“FICA”) (collectively referred to as “tax payments” or tax monies”) for the firm’s employees. (ODC-1, Joint Petition; N.T. 6/21/22, p. 144- 145).
5. On January 18, 2018, Petitioner pled guilty to one felony count of willful failure to collect and remit taxes owing and due by the law firm for 2011 through 2015, in violation of 26 U.S.C. § 7202. (ODC-1, Question No. 20; ODC-1, Joint Petition; N.T. 6/21/22, pp 152-153).
6. On March 19, 2018, ODC and Petitioner filed a Joint Petition to Temporarily Suspend an Attorney and on April 3, 2018, the Supreme Court of Pennsylvania entered an order temporarily suspending Petitioner from the practice of law.

7. On June 22, 2018, Petitioner was sentenced to imprisonment for twelve months and one day and supervised release for three years. (See Judgment in a Criminal Case attached to ODC- 1; N.T. 6/21/22, p. 155, 156).
8. Petitioner was ordered to make an immediate lump sum payment of restitution to the IRS in the amount of \$284,567.84. Petitioner made the payment in full on May 14, 2018, prior to sentencing. Petitioner was also required to make payment to the Court for a criminal fine of \$10,000.00. The sentencing judge recommended that Petitioner make payments toward the fine while incarcerated and after release make installment payments of not less than \$100 per month. (See, Judgment in a Criminal Case attached to ODC-1; P-19; N.T. 6/21/22, p. 152, 154, 156, 157).
9. On August 3, 2018, Petitioner self-reported to federal prison. (N.T. 6/21/22, p. 158).
10. On May 14, 2019, Petitioner was released to home confinement under the custody of the Bureau of Prisons until June 14, 2019. He was on supervised release until May 6, 2021. (ODC-1, Petition at Paragraph 8; N.T. 6/21/22, p. 162, 164).
11. On December 3, 2019, the Court granted a Joint Petition in Support of Discipline on Consent and suspended Petitioner for a period of four years, retroactive to the effective date of his temporary suspension.

Petitioner's Conduct and Employment After His Incarceration

12. Following his release from prison, Petitioner trained and became a commercial truck driver and worked in that capacity for four months (August 2020 to December 24, 2020). (N.T. 6/21/22, p. 167, 169, 170, 175).

13. Since January 2021, Petitioner has been employed by Kelly Auto Group selling used cars and is one of the top sales performers. (N.T. 6/21/22, p. 175).
14. During his suspension, Petitioner fulfilled his Continuing Legal Education requirements necessary for reinstatement. (P-17).
15. During his suspension, Petitioner helped his wife negotiate a payment agreement for her unpaid school taxes due in 2020 and 2021. (N.T. 6/22/22, pp. 35-39).
16. During his suspension, Petitioner's LinkedIn and Alignable professional profiles indicating he is a licensed lawyer remained on the internet, although Petitioner claimed he never created them and did not use them. (N.T. 6/21/22, p. 231-234).

Petitioner's Bankruptcy Filing

17. Petitioner testified that after liquidating personal assets, he did not have \$284,567.84 to pay restitution to the IRS and obtained an undisclosed loan from his in-laws to pay the portion of the obligation that he was unable to personally cover. (N.T. 6/21/22, p. 154; N.T. 6/22/22, p. 25-26).
18. Petitioner could not identify the personal assets he had liquidated but stated that those assets were disclosed in the bankruptcy filing. (N.T. 6/22/22, p. 25).
19. Petitioner did not introduce as an exhibit the bankruptcy filing listing those liquidated assets.
20. Petitioner testified that he and his wife filed for bankruptcy protection to manage the law firm's federal and state tax liabilities, for which Petitioner was responsible as the law firm's sole shareholder. (N.T. 6/22/22, p. 27-29).

21. On August 15, 2019, the Bankruptcy Court confirmed Petitioner's and his wife's Fourth Amended Chapter 13 Plan (P-36), which provides for their last payment to be made on August 30, 2025. (P-20).

Petitioner's Willful Failure to Create a Plan to Pay Outstanding Taxes

22. In 2016, Petitioner failed to remit tax payments to the IRS of \$27,071.00. (ODC-46 at 214-227).

23. In 2017, Petitioner failed to remit tax payments to the IRS of \$22,913.24. (ODC-46 at 229-243).

24. Petitioner has not contacted the IRS about paying the \$49,984.24 he was obligated by law but failed to remit to the IRS. Petitioner views his obligation to the IRS as something that has not come due from him yet, and that perhaps the IRS will never seek to collect. (N.T. 6/22/22, p. 74-76)

25. Petitioner only intends to contact the IRS regarding payment of the monies in 2025 when his bankruptcy payments are complete, if his financial situation changes through reinstatement, or if the IRS begins to request payment, as he testified that he is not yet in the position to do more. (N.T. 6/21/22, p. 187-188; N.T. 6/22/22, p. 11-13).

Petitioner's Witnesses
Petitioner's Additional Testimony

26. Petitioner described his criminal conduct as a "terrible error in judgment." (N.T. 6/22/22, p. 68.)

27. Petitioner emphasized that at the time he pled guilty to his criminal offense and was sentenced, his wife was unemployed and after they liquidated personal assets to pay restitution, she and his children were without income during his incarceration. Petitioner failed to acknowledge that it was his conduct that left his family in that financial predicament. (N.T. 6/21/22, p. 154, 157).
28. Petitioner testified to his experience in prison and the difficult circumstances of the group living conditions and working alongside inmates convicted of a range of offenses from drug distribution to murder. (N.T. 6/21/22, p. 158-159, 163)
29. Petitioner described that after he was released to home confinement, he “was required to wear a collar, a transmitter on my ankle in the presence of my family, which went off if I left my house to go to the mailbox. I don’t tell you these things because I’m looking for pity. I deserved my judgment. I tell you them so you know I will never be in that position again.” (N.T 6/21/22, p. 163-164).
30. Petitioner testified that he has not been on a vacation since 2017 and drives a 2015 vehicle. (N.T. 6/22/22, p. 69-70, 79).
31. Petitioner described the hard physical nature of his training and employment as a commercial truck driver. (N.T. 6/21/22, p. 169, 170, 173-175).
32. Petitioner is current in his installment payments of the criminal fine. (N.T. 6/21/2022, p. 205).
33. Petitioner is current in the payment of his obligation to the bankruptcy trustee. (N.T. 6/21/2022, p. 207).

Dr. Gregory Singer

34. Dr. Singer, a family and board-certified physician, credibly testified that he met Petitioner when he hired Petitioner to provide legal services regarding disputes with a contractor pertaining to an office building Dr. Singer was having built. (N.T. 6/21/22, p. 27, 37).
35. Dr. Singer later hired Petitioner to negotiate a lower mortgage payment on the building when he was having financial difficulties and described Petitioner's competency and knowledge in the law as excellent. (N.T. 6/21/22, p. 29).
36. Dr. Singer testified that he was aware of Petitioner's criminal conviction and found Petitioner to be a person of good moral and ethical standards despite Petitioner's convictions. (N.T. 6/21/22, p. 33).
37. Dr. Singer testified that he was unaware that the Social Security amounts required to be withheld were not turned over by Petitioner. (N.T. 6/21/22, p. 44).
38. Dr. Singer's testimony is credible.

Richard McGinnis

39. Mr. McGinnis is close friends with Petitioner and his family. (N.T. 6/21/22, p. 48).
40. Petitioner represented Mr. McGinnis in several legal disputes regarding Mr. McGinnis' business and business planning. (N.T. 6/21/22, pp. 48-49).
41. Mr. McGinnis testified that if reinstated to the practice of law, he would trust Petitioner to represent him again. (N.T. 6/21/22, p. 54).
42. Mr. McGinnis was aware of Petitioner's criminal conviction. (N.T. 6/21/22, p. 52).

43. Mr. McGinnis' testimony is credible.

Elizabeth Gschrey

44. Ms. Gschrey is a certified paralegal and worked for Petitioner from September 1998 until the end of 2017. (N.T. 6/21/22, p. 64).

45. Petitioner handled the probate of Ms. Gschrey's father's estate as well as represented Ms. Gschrey regarding a car accident. (N.T. 6/21/22, p. 66).

46. Ms. Gschrey testified that she believes Petitioner to be a highly competent attorney. (N.T. 6/21/22, p. 67).

47. Ms. Gschrey became aware around 2012 that Petitioner was being investigated by the IRS and she subsequently had a phone interview with an IRS agent. (N.T. 6/21/22, p. 69).

48. Ms. Gschrey characterized Petitioner's criminal conduct as a "mistake." (N.T. 6/21/22, p. 70, 78-79).

49. Ms. Gschrey testified that she believes Petitioner is more subdued and humbled since his release from incarceration. She further testified that among people she knows who know Petitioner, he has a reputation as a person of good character who is honest and trustworthy. (N.T. 6/21/22, p. 74, 75).

50. The Committee questioned the credibility of Ms. Gschrey, as it found her testimony to be evasive at times (HC Rpt., p. 9, Fact #42). We rely on the Committee's credibility findings.

Vanessa Nenni, Esquire

51. Ms. Nenni is an attorney admitted to practice in the Commonwealth in 1985. She first met Petitioner professionally through the Lehigh County Bar Association. (N.T. 6/21/22, p. 82).
52. Ms. Nenni operated her own law practice and used Petitioner to handle business transactional matters. (N.T. 6/21/22, p. 83-84).
53. Ms. Nenni testified that she believes Petitioner is competent and knowledgeable and would not hesitate to send clients to him. (N.T. 6/21/22, p. 86).
54. Ms. Nenni testified that she was aware of Petitioner's criminal offense and Petitioner had expressed remorse for his criminal offense. (N.T. 6/21/22, p. 89-90).
55. Ms. Nenni's testimony is credible.

Paul Grim

56. Mr. Grim met Petitioner when Petitioner married Mr. Grim's cousin. (N.T. 6/21/22, p. 93-94).
57. Mr. Grim was aware of Petitioner's criminal conviction and noted that Petitioner was humbled as a result of it. (N.T. 6/21/22, p. 97).
58. Mr. Grim testified that he would not think less of the bar if Petitioner was reinstated to the practice of law. (N.T. 6/21/22, p. 100).
59. The Committee found Mr. Grim's testimony to be partly credible (HC Rpt., p. 10, Fact #50). We rely on the Committee's credibility findings.

James R. Cummings

60. Mr. Cummings was Petitioner's neighbor for over thirty years as well as a member

of the same church parish as Petitioner. (N.T. 6/21/22, p. 103).

61. Petitioner represented Mr. Cummings regarding real estate transactions and represented Mr. Cummings' son in legal matters. (N.T. 6/21/22, p. 105).
62. Mr. Cummings described Petitioner's legal representation as fair, honest, and timely. (N.T. 6/21/22, p. 105-106).
63. Mr. Cummings was aware of Petitioner's criminal conviction and testified that he still thought very positively of Petitioner's moral character. (N.T. 6/21/22, p. 107-108).
64. Mr. Cummings' testimony is credible.

Dr. J. Eric Valencia

65. Dr. Valencia is a root canal dentist who initially hired Petitioner in 2006 to handle some real estate transactions for him. (N.T. 6/21/22, p. 113-114).
66. Throughout the years, Dr. Valencia hired Petitioner to handle several other legal matters. (N.T. 6/21/22, p. 114-115).
67. Dr. Valencia would trust Petitioner to represent him again if reinstated to the practice of law. (N.T. 6/21/22, p. 119).
68. Dr. Valencia testified that Petitioner faced his "mistake" and dealt with it, and Petitioner has expressed remorse to him personally. (N.T. 6/21/22, p. 121, 122).
69. Dr. Valencia's testimony is credible.

Dr. Thomas Young

70. Dr. Young is a cosmetic doctor who met Petitioner thirty years ago when Petitioner

represented him on a real estate transaction. (N.T. 6/21/22, p. 130, p. 139).

71. Throughout the years, Petitioner represented Dr. Young on various legal matters and Dr. Young stated that Petitioner was hard-working, diligent, and prepared regarding those matters. (N.T. 6/21/22, p. 131).
72. Dr. Young testified to his familiarity with Petitioner's criminal conviction and sentence. (N.T. 6/21/22, p. 134).
73. Dr. Young testified that Petitioner should be reinstated to the bar and he would hire Petitioner again to represent him. (N.T. 6/21/22, p. 138).
74. Dr. Young's testimony is credible.

ODC's Witnesses
Jorge Pereira

75. Mr. Pereira is an attorney admitted to practice in the Commonwealth in 1995. He currently is employed as an assistant solicitor for the City of Allentown, Pennsylvania. Mr. Pereira formerly was employed at Petitioner's law firm from 1998 through 2015, and was the only lawyer other than Petitioner. (N.T. 6/22/22, p. 103, 145).
76. In 2011, Mr. Pereira accepted Petitioner's suggestion that, for tax reasons, it would benefit Mr. Pereira to switch from being a law firm employee to working for the law firm as an independent contractor. This change relieved Petitioner of the responsibility to pay taxes and made Mr. Pereira responsible for paying all employment-related taxes. (N.T. 6/22/22, p. 106, 127).

77. Petitioner never disclosed to Mr. Pereira anything about the law firm's failure to pay withholding taxes. (N.T. 6/22/22, p. 127).
78. In 2013, the IRS contacted Mr. Pereira about Mr. Pereira's change of employment status with the law firm. (N.T. 6/22/22, p. 105).
79. Mr. Pereira did not leave the law firm because Petitioner promised things would improve, and Mr. Pereira had a newborn baby to support. (N.T. 6/22/22, pp. 142-144).
80. Mr. Pereira testified to his belief that Petitioner chose to take care of himself and his expenses at the expense of Mr. Pereira and the other law firm employees during the time that the firm was having financial difficulty. (N.T. 6/22/22, p. 130, 134-136).
81. In 2015, Mr. Pereira notified Petitioner that he was leaving the law firm and requested a check for the monies in his 401k account, approximately \$14,000.00 to \$15,000.00. (N.T. 6/22/22, p. 117).
82. Mr. Pereira's 17 year professional relationship with Petitioner ended on bad terms as a result of Mr. Pereira learning his 401k account had a zero balance. (N.T. 6/22/22, p. 108-109, 124).
83. When Mr. Pereira confronted Petitioner and asked where his retirement monies had gone, Petitioner refused to give Mr. Pereira a straight answer and they argued. (N.T. 6/22/22, p. 117, 120-152).
84. As a matter of practice, Petitioner did not regularly provide to Mr. Pereira

information about the amount in Mr. Pereira's 401k account. For this reason, Mr. Pereira did not know the actual amount that had been taken. (N.T. 6/22/22, p. 129)

85. Before leaving the law firm, Mr. Pereira and Petitioner agreed upon a negotiated amount of \$14,000.00 or \$15,000.00 and Petitioner agreed to pay the amounts monthly over one year, ending in 2016, which Petitioner paid. (N.T. 6/22/22, p. 113, 117-119, 128-129, 151-152).

86. Mr. Pereira candidly testified that he believes Petitioner is a dishonest person but can, at times, be truthful. (N.T. 6/22/22, p. 119).

87. Although Petitioner never apologized for his conduct, Mr. Pereira did not want Petitioner to go to prison and did not want Petitioner's family to suffer on account of Petitioner being incarcerated. He believed Petitioner deserved a second chance and, in 2018, provided a letter asking the federal court not to incarcerate Petitioner. (N.T. 6/22/22, pp. 120, 130, 135, 150-151).

88. Mr. Pereira's testimony is credible.

Susan Roehre

89. Ms. Roehre's professional experience includes 23 years with the United States Department of Treasury as a special agent and criminal investigator for the IRS Criminal Investigation Division and 5 years as an ODC auditor/investigator. (N.T. 6/22/22, pp. 156-157). Ms. Roehre's testimony overall was credible, and particular attention is directed to the areas highlighted below.

**Petitioner's Failure to Perform Financial Responsibilities at his Law Firm and
Subsequent Continued Failure to Exhibit Remorse**

90. On a monthly basis spanning the second half of 2008 through at least 2017, Petitioner willfully failed to collect and failed to turn over to the IRS federal payroll taxes, including Social Security and Medicare Trust fund contributions required for the firm's employees. (N.T. 6/21/22, p. 144-145).
91. Petitioner blames, among other things, the Great Recession of 2008, and a \$200,000.00 drop in law firm revenue for his financial difficulties and his decision to violate federal tax law. (N.T. 6/21/22, p. 143-145).
92. Petitioner used entrusted tax monies he was required to remit to the IRS to finance the law firm's payroll and to pay only the law firm's secured creditors (who were also law firm clients) and who were his personal creditors. Petitioner used the entrusted funds because he believed that he was incapable of failing at anything and claimed he felt financially responsible for his employees (and their families). (N.T. 6/21/22, p. 145-146).
93. During the relevant time period when Petitioner's law firm was experiencing ongoing cash flow problems, Petitioner asked employees to hold off cashing or depositing their paychecks, and failed to collect and remit tax payments. Petitioner continued to receive the highest pay among law firm employees. Most of the unpaid withholding taxes are attributable to Petitioner's wages. (N.T. 6/22/22, p. 68, 140-142).
94. Petitioner claims that he did not know he could be subject to criminal penalties for

not remitting tax payments to the IRS. He blames the IRS for failing to include a warning that Petitioner was subject to criminal penalties in the numerous IRS notifications to him regarding Petitioner's failure to remit taxes. (N.T. 6/22/22, p. 72-73).

95. In response to a question by Committee Chair Santarelli, "[b]ut you are an attorney, and you know there are criminal penalties for failure to remit taxes to the IRS," Petitioner replied, "I certainly do now." (N.T. 6/22/22, p. 73).
96. In regard to the above, Ms. Roehre testified that it was important to verify how Petitioner handled the entrusted tax payments after 2015. Ms. Roehre further testified that Petitioner's conviction concerns "payroll taxes, which are entrusted funds of his employees" and that these entrusted funds "are very similar to the IOLTA client entrusted funds." (N.T. 6/22/22, p. 175).
97. In his failed attempt to undermine Ms. Roehre's credibility and competency in completing her investigation of court records and Petitioner's tax records, Petitioner repeatedly elicited from Ms. Roehre the irrelevant testimony that she does not have legal training and/or is not an accountant. (N.T. 6/22/22, p. 187, 192-208; 224)

Question No. 10 - Civil Actions

98. Petitioner answered "yes" to Question No. 10(a) on the Reinstatement Questionnaire, asking whether he has "ever been involved in a civil action as a party or as one who claimed an interest?" Petitioner identified a foreclosure action

filed by ESSA Bank & Trust, successor in interest to First Star Savings Bank ("Essa Bank"), against him and his wife at Docket No. 2019-C-3543 (Lehigh County CCP) (the "Mortgage Foreclosure Action"). He stated that no judgment had been entered because the matter had been settled. Petitioner provided a certified copy of the docket sheet. (ODC-1, Question No. 10(a); ODC-37; ODC-46 at N.T. 6/21/22, p. 199-200).

99. Other than performing a Google search for civil matters, Petitioner relied upon his memory to identify the Mortgage Foreclosure Action in response to Question No. 10. (N.T. 6/21/22, p. 196-197).
100. Petitioner negotiated settlement terms with ESSA Bank's lawyer, David C. Berger, Esquire. (ODC-45).
101. The docket sheet for the Mortgage Foreclosure Action includes an October 5, 2020 entry referring to a Stipulation of Settlement. The October 7, 2020 entry provides additional information, referring to an Order approving a Settlement Agreement dated September 28, 2020 (the "Settlement Agreement"), adopting the Settlement Agreement as a binding order, and discontinuing the Mortgage Foreclosure Action without prejudice. (ODC-37).
102. Petitioner refused ODC's multiple requests to provide the settlement terms and a copy of the Settlement Agreement. Petitioner testified he did not want to provide the Settlement Agreement because the terms of the agreement required him, his wife and the bank to keep it confidential. (N.T. 6/21/22, p. 200, 201-204; N.T.

6/22/222, pp. 166-168; ODC-46 at 303, 306).

103. Petitioner directed ODC to review mortgage interest statements purportedly showing that he had made timely payments and complied with the Settlement Agreement, noting the absence of any other foreclosure. (N.T. 6/21/22, p. 203; P-24; ODC-46 at 306-307).
104. Ms. Roehre contacted Attorney Berger for information about the settlement and the Settlement Agreement, offering to provide a subpoena or Petitioner's Waiver of Confidentiality Form for ESSA Bank to provide a copy of the Settlement Agreement. (N.T. 6/22/22, p. 167-170).
105. After receiving Petitioner's Waiver of Confidentiality Form, Attorney Berger produced the Settlement Agreement, clarifying that neither the Settlement Agreement nor the settlement terms were confidential. Still, as an accommodation to Petitioner and his wife, ESSA Bank had agreed to keep the settlement terms out of the public domain. (ODC- 45; N.T. 6/22/22, p. 168-169, 2010-211).
106. To verify the accuracy of Petitioner's Response to Question No. 10, Ms. Roehre utilized publicly available databases. Ms. Roehre used these databases to search civil record filings in the Lehigh County Court of Common Pleas. The search results for "Douglas Marinos" revealed many more matters than just the Mortgage Foreclosure Action (ODC-37), including: a) Petitioner in his individual capacity (ODC-10; ODC-20; ODC- 23; ODC-24; ODC-33); b) the Law Firm of Douglas M. Marinos, PC (ODC- 11; ODC-12; ODC-13; ODC-15; ODC-16; ODC-17; ODC-19;

ODC-21; ODC-22; ODC-25; ODC-26; ODC-27; ODC-35; ODC-36); c) Petitioner and the Law Firm of Douglas M. Marinos, PC or CPMMD, P.C. (ODC-14; ODC-18; ODC-28; ODC-29); d) The Law of Business (ODC-30; ODC-41); and e) the property where Petitioner resides with his wife, but which is not in Petitioner's name. (ODC-38; ODC-39; N.T. 6/22/22, pp. 160-164).

107. On February 24, 2022, ODC wrote to Petitioner about his responses to Question Nos. 10, 11, 12, and 15, asking him to address the matters Ms. Roehre had located by searching public databases and expressed ODC's concern about Petitioner's advertisements on LinkedIn and Alignable. ODC provided a one-page document identifying the civil matters and copies of the advertisements with the February 24, 2022 letter. (ODC-46 at 280-285).
108. Petitioner did not consider any of the matters identified in ODC's February 24, 2022 correspondence to be civil matters.
109. Petitioner claimed he did not have access to the sources of the information he would need to supplement his response to Question No. 10. (ODC-46 at 302, 306) Petitioner did not know docket sheets are available online and in person from the Prothonotary. (N.T. 6/21/22, pp. 197-198).
110. On March 3, 2022 and March 28, 2022, Petitioner requested ODC's assistance in providing full captions and docket entries (docket sheets) for each case and copies of the liens and judgments identified in the February 24, 2022 letter. (ODC-46 at 289, 302, 306).

111. Petitioner refused response to ODC's requests without this information and demanded ODC provide further explanation. (ODC-46 at 304, 306-309).
112. On May 23, 2022 and May 30, 2022, Petitioner supplemented his response to Question 10(c), writing, "I told you (on January 21, 2022 and March 3, 2022) why as a practical matter I required your assistance when I asked for, among other things, the docket entries." (ODC-46 at 306-309; N.T. 6/22/22, p. 208-209).
113. Despite knowing he failed to remit to the IRS taxes in 2016 and 2017, in response to Question No. 10(d), Petitioner falsely stated that he does not have debts that are 90 days past due.
114. Rather than comply with his duty to fully cooperate, Petitioner attempted to control ODC's investigation, including when Ms. Roehre would contact character witnesses. (ODC-46 at 1, 15, 20, 289, 302).

Question No. 12 - Non-Wage Income Over \$500 During Suspension

115. In response to Question No. 12 on the Reinstatement Questionnaire, Petitioner falsely answered "NA" when directed to "list any income in excess of \$500 which you received in any one year during the period of your disbarment/suspension/transfer to disability inactive status or the ten years next preceding the filing of the petition, whichever is less, and which is not listed in 11 above."
116. On February 24, 2022, Petitioner was questioned by ODC about his failure to "list the payment of \$20,417.00 from The Margolis Law Firm LLC" and failure to

"identify the assignment of judgment from The Law of Business, PC to Douglas M. Marinos for \$30,013.42" and inquired why he had not included these items in his disclosures to ODC or (as to the assignment only) his tax return. (ODC-46 at 280-281).

117. Petitioner claimed he did not list the referral fee of \$20,417.00 in response to Question No. 12 because he stated he earned it before his suspension, which is not what is asked in Question No. 12. Petitioner ignored the fact that he did not earn the referral fee when the Contingent Fee Agreement was signed on August 24, 2015; he "earned" it in 2019 when The Margolis Law Firm LLC recovered for the personal injury client in 2019. Petitioner did report the referral fee on his 2019 tax return. (ODC-46 at 143, 146, 303; N.T. 6/21/22, p. 217).
118. Petitioner did not report the \$12,500.00 he received from former client, Oscar C. Gido, aka Oscar C. Gido, DDS to ODC on the Questionnaire or his 2020 tax return. (ODC-1, Question No. 12; ODC-42; N.T. 6/21/22, p. 225-227; N.T. 6/22/22, p. 180).
119. Petitioner claims he did not disclose the \$12,500.00 in response to Question No. 12 because it did not ask about monies received because of an assignment of judgment. (N.T. 6/22/22, p. 95; ODC-46 at 304, 309).
120. Petitioner claims he did not report the \$12,500.00 on any of his 2020 tax filings because he did not consider it income as the monies were used to repay loans he and his wife had made to the law firm. (N.T. 6/21/22, p. 225-228; N.T. 6/22/22, p.

93-95; ODC-46 at 304, 309).

121. Ms. Roehre credibly testified Petitioner should have reported the \$12,500.00 as income, regardless of how he ultimately used the money. (N.T. 6/22/22, p. 179, 181-182).

Question No. 15 - Fixed Financial Obligations & Notable Requirements For Payment

122. In response to Question No. 15 on the Reinstatement Questionnaire concerning Petitioner's fixed financial obligations or other notable requirements for payment, such as for alimony or support, financial liabilities existing "[a]s of the date of the within answers," Petitioner responded, "yes." (ODC-1, Question No. 15).
123. In response to the latter part of Question No. 15 asking Petitioner to "list the name and address of each creditor or obligee, the date on which the obligation was incurred, the balance outstanding for each obligation as of the date of filing of the within answers and the monthly payment for each," Petitioner identified only the \$100.00 payment for the criminal fine and the \$1,000.00 payment to the bankruptcy trustee. (N.T. 6/21/22, p. 204-206).
124. Petitioner did not consider any of his other financial obligations as of December 24, 2021, to be "notable." (N.T. 6/21/22, p. 210-211; N.T. 6/22/22 p. 40-41).
125. On December 24, 2021, Petitioner's other liabilities included: a) a monthly payment of over \$500.00 towards unpaid liens against Mrs. Marinos for unpaid school taxes owed for 2020 and 2021 (N.T. 6/22/22, pp. 35-39; ODC-38; ODC-39); b) mortgage

interest payments and tax payments under the Settlement Agreement (approximately \$1,500.00 until October 19, 2023, escrow payment for taxes of \$1,475.11 until October 30, 2025, payment of principal, interest, and escrow from October 20, 2023, until maturity on October 30, 2025, and a lump sum payment of \$70,000.00 for a Commercial Loan by October 30, 2025 (ODC-45); and c) the undocumented loan for restitution. (N.T. 6/21/22, p. 212-213; N.T. 6/22/22, p. 25-26, 35-41).

126. Petitioner denied having been dishonest with ODC or withholding or concealing information from ODC. (N.T. 6/21/22, p. 211; N.T. 6/22/22, p. 40-41).
127. Petitioner failed to express genuine remorse for his criminal conduct.
128. Petitioner displayed a lack of professionalism and civility during the reinstatement proceeding.

III. CONCLUSIONS OF LAW

1. Petitioner failed to demonstrate by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required for reinstatement to the bar. Pa.R.D.E. 218(c)(3)
2. Petitioner failed to demonstrate by clear and convincing evidence that his resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Pa.R.D.E. 218(c)(3).

IV. DISCUSSION

In this matter, where Petitioner seeks reinstatement from a four year suspension on consent resulting from his criminal conviction for willful failure to collect and remit his law firm's federal tax obligations, Petitioner bears the burden of proving by evidence that is clear and convincing, that he is morally qualified, competent and learned in the law and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Pa.R.D.E. 218(c)(3). The reinstatement process is not a mere formality; it is a thorough and searching inquiry into a lawyer's present professional and moral fitness to resume the practice of law. The object of concern is not solely the transgressions that gave rise to the lawyer's suspension, but rather, the nature and extent of the rehabilitative efforts made since the time the sanction was imposed and the degree of success achieved in the rehabilitative process. *Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court of Pennsylvania*, 363 A.2d 779, 780-781 (Pa. 1976).

After reviewing the evidence, the Committee recommended that Petitioner's reinstatement be denied. The Committee based its recommendation on its conclusions that Petitioner failed to prove that he has the competency to practice law because his Reinstatement Questionnaire contained misrepresentations and omissions; Petitioner failed to address his financial obligations resulting from his criminal misconduct; and Petitioner lacks the moral qualifications required to practice because he failed to show genuine remorse and demonstrated a lack of civility and professionalism throughout the reinstatement process. Upon this record, and for the following reasons, we agree with the

Committee and conclude that Petitioner has failed to meet his stringent reinstatement burden.

Petitioner's Omissions and Misrepresentations on the Questionnaire

Petitioner's Reinstatement Questionnaire was false and incomplete, demonstrating his lack of competence, candor and honesty. Petitioner omitted important information from his responses to the Questionnaire when it suited him and failed to fully cooperate with ODC during its investigation of the Petition and accompanying Questionnaire. Instead, Petitioner repeatedly parsed language and obfuscated in his responses to legitimate ODC questions and requests. The record demonstrates that Petitioner substantially misrepresented: a) being a party to civil actions and having an interest in many civil actions (in addition to the Mortgage Foreclosure Action); b) his financial obligation under the Settlement Agreement; c) the Settlement Agreement being confidential; d) the \$12,500.00 Petitioner received from his former client and did not report as income on any tax filing for 2020; and e) the referral fee he failed to identify.

Petitioner's failure to provide complete and honest responses to straightforward questions asked on the Questionnaire raises serious doubt as to his competence and honesty and weighs against his reinstatement. Prior reinstatement matters establish that a petitioner lacks competence and moral qualifications when he engages in a pattern of inaccuracies and falsities on the Questionnaire and fails to credibly explain the omissions and deficiencies. *See, In the Matter of William J. Helzouer*, No. 197 DB 2018 (D. Bd. Rpt. 9/27/2022, p. 12) (S. Ct. Order 12/7/2022) (Questionnaire contained numerous deficiencies; these "false, inaccurate and incomplete

responses on his Questionnaire show not only his lack of competence in carefully completing a critically important reinstatement document, but further demonstrate his lack of moral qualifications by making false statements on the Questionnaire. [Helzlsouer's] inability to provide complete and truthful answers on his Questionnaire suggests he did not take his reinstatement matter seriously and reflects negatively on his fitness to practice law."); *In the Matter of E. Nkem Odinkemere*, No. 129 DB 2005 (D. Bd. Rpt. 3/14/2012, p. 12) (S. Ct. Order 7/18/2012) (Odinkemere disregarded his obligation to provide accurate and truthful information on the Questionnaire and to submit requested documents; Odinkemere took no affirmative action to gather information, and stated he was not obligated to search every record and court system and was entitled to rely on his memory; the Board found that "knowing that the restoration of his professional license was at issue, [Odinkemere's] evasiveness is inexplicable and can reasonably be interpreted as unfitness to practice law.")

Similarly, in *In the Matter of Ronald I. Kaplan*, No. 39 DB 2005 (D. Bd. Rpt. 4/22/2009, p. 11, 12-13) (S. Ct. Order 7/24/2009) the Board found that Kaplan's failure to include his retail theft conviction and six unsatisfied judgments on his Questionnaire, as well as failure to file a notice of employment with the Disciplinary Board, demonstrated a lack of competency. The Board noted that the Questionnaire provides information to ODC and is a critical part of the determination of a petitioner's fitness. The Board also specifically noted that "such negligence in connection with an important personal matter raises questions as to [Kaplan's] competence." It further stated that, "[i]t has been previously held that a defective questionnaire should not be a bar to reinstatement where

the petitioner testified at the hearing and fully explained the discrepancies. Conversely, the Board has concluded that a petitioner lacks competency when he engages in a pattern of inaccuracies pertaining to the Questionnaire and exhibits an inability to answer questions pertaining to the Questionnaire at the reinstatement hearing.”

In the present matter, Petitioner's numerous and significant deficiencies in his Questionnaire responses are more than mere inconsequential inaccuracies. Even assuming that Petitioner's omissions resulted from his lack of attention to detail, his explanations for not providing the requested information to ODC are not credible.

Petitioner's Failure to Address Federal Tax Obligations

The Committee was troubled by Petitioner's position that while he is fully aware that he is obligated to pay the IRS \$49,984.24, he has made no plans to pay it, has not attempted to pay it, and only intends to contact the IRS after his bankruptcy is complete in 2025, if the IRS ever contacts him for payment, or if he is reinstated and his financial situation changes. Petitioner's stance is difficult to appreciate, in light of the fact that he was convicted of a felony count of willful failure to collect and remit federal tax obligations and imprisoned for that conduct. We agree with the Committee that Petitioner's seemingly nonchalant attitude regarding his tax obligations and his failure to have a plan to satisfy his obligation weigh in favor of denying reinstatement as this evidence cuts against Petitioner's claim that he is rehabilitated from his underlying misconduct.

Several recent matters have addressed the issue of a petitioner's

satisfaction of debts. These cases establish that the full satisfaction of debts is not a prerequisite to reinstatement, as long as there is credible evidence that the petitioner showed good faith efforts to address the obligations. See, *In the Matter of Joseph A. Gembala, III*, No. 21 DB 2012 (D. Bd. Rpt. 5/10/2022) (S. Ct. Order 6/21/2022); *In the Matter of Robert P. Maizel*, No. 26 DB 2014 (D. Bd. Rpt. 10/15/2018) (S. Ct. Order 11/16/2018); *In the Matter of Bruce R. Akins, Sr.*, No. 58 DB 1989 (D. Bd. Rpt. 4/4/2017) (S. Ct. 5/12/2017).

However, a petitioner's failure to demonstrate good faith efforts to satisfy debt related to the underlying misconduct may act as a bar to reinstatement. In *In the Matter of Michael Andrew Rabel*, No. 33 DB 2015 (D. Bd. Rpt. 12/20/2022, p. 18-22) (S. Ct. Order 3/8/2023), the Board concluded that Rabel's failure to demonstrate that he made a good faith attempt to reimburse former clients and satisfy civil judgments and obligations that arose due to his underlying misconduct showed that he was not rehabilitated and ready to resume the practice of law. This failure, along with Rabel's filing of a deficient Questionnaire, led the Board to recommend that Rabel's reinstatement be denied. The Court adopted the Board's recommendation and denied reinstatement.

In *In the Matter of Brian Joseph Smith*, 236 DB 2018 (D. Bd. Rpt. 11/10/21) (S. Ct. Order 3/18/22), the Board recommended reinstating Smith, a suspended attorney, even though Smith had not satisfied financial obligations that occurred as the result of his professional misconduct and had not entered into payment plans or communicated with his creditors. Smith testified, similar to the instant Petitioner, that he would address his obligations when reinstated. After issuing a Rule to Show Cause directing Smith to address

whether he had demonstrated a good faith effort towards satisfying his outstanding debt, the Court denied Smith's reinstatement.

In *In the Matter of Jay Marc Berger*, No. 159 DB 2008 (D. Bd. Rpt. 9/13/2021) (S. Ct. Order 1/6/2022), the Hearing Committee recommended denial of reinstatement due to, *inter alia*, Berger's lack of "concern for making good on his debts" and "inability to accept responsibility for his debt" in that the debt had never been addressed by Berger. The Hearing Committee found that Berger failed to submit any plan, provide any accounting, or submit a path forward to address his debt. After the Board issued a Report recommending that Berger be reinstated, the Court issued a Rule directing Berger to show cause why an order denying reinstatement should not be entered. The Court listed several concerns, including Berger's outstanding debt and his failure to outline a plan to address the debt. The Court ultimately denied Berger's reinstatement.

Applying the above, we conclude, as did the Committee, that Petitioner has not made a good faith effort to satisfy his outstanding and admitted financial obligations. Petitioner has not entered into a payment plan regarding his unpaid 2016 and 2017 taxes, and it is apparent that he does not believe it is crucial to do so. As in the matters cited above, it is our view that Petitioner must get his financial affairs in order prior to being reinstated. This is especially important because Petitioner's demonstrated lack of financial management and his history of disordered financial affairs led to his criminal conviction and suspension from the practice of law.

Petitioner's Lack of Genuine Remorse and Lack of Professionalism and Civility

The record as a whole reflects that Petitioner failed to understand that the reinstatement proceeding was his opportunity to demonstrate that he is genuinely remorseful for his underlying criminal conduct, is rehabilitated, and is fit to resume the practice of law. Petitioner had two days of hearing, briefing opportunities and oral argument to advocate his position that he has met his burden. Instead, Petitioner devoted much of his efforts to criticizing ODC's actions and placing blame on others for his own omissions, misrepresentations, and inaccuracies. Petitioner's approach to reinstatement was not one of genuine remorse and regret for his misconduct, but rather one of entitlement and expectation that he should be reinstated after enduring personal hardships. Petitioner focused on the hardships he experienced being in prison, wearing a collar and a transmitter in front of his family while on home confinement, physical hardships in training and working as a commercial truck driver, and his lack of a vacation since 2017. Petitioner referenced his family's financial hardships on several occasions, without any simultaneous acknowledgment that his criminal actions, and his alone, left his family in that predicament.

Petitioner's testimony that he is sorry and does not want to find himself in the same position again is not credible, and is belied by his failure to pay taxes for 2016 and 2017 that he knows he owes, his failure to approach the IRS to discuss a plan for repayment, his testimony that perhaps the IRS won't bother collecting those obligations, and his testimony that he will not address the unpaid taxes until certain other events

occur. Petitioner's testimony that he is humbled by his experience is not credible and not borne out by the record.

The Committee specifically found that Petitioner exhibited a palpable lack of civility and professionalism throughout the proceedings. The Committee noted the unprofessional manner by which Petitioner handled himself and treated both ODC and particularly ODC's witness and auditor Susan Roehre throughout the process. The Committee described Petitioner's behavior, attitude and demeanor as rude and at times intemperate and combative. The Committee further noted Petitioner's uncivil behavior concerning email correspondence and pre- and post-trial motions submitted to the Committee, ODC and Special Counsel. We rely on the Committee's findings, as the panel had a first-hand view of Petitioner's demeanor, and we agree that such behavior is entirely inconsistent with someone who claims remorse and rehabilitation.

Petitioner's lack of remorse as to the actual misconduct and his singular focus on the consequences to himself and his family, coupled with his lack of professionalism and civility during the reinstatement proceedings, leads the Board to conclude that Petitioner presently lacks the moral qualifications required for reinstatement. *See, Helzlsouer*, No. 197 DB 2018 (D. Bd. Rpt. 9/27/2022, p. 13-14) (Helzlsouer failed to show he was morally qualified, as the record was absent of any expression of genuine remorse or acceptance of responsibility for the underlying wrongdoing); *In the Matter of Paul Joseph Staub, Jr.*, No. 36 DB 2010 (D. Bd. Rpt. 1/9/2018, p. 14) (S. Ct. Order 3/1/2018) (Staub did not "fully acknowledge that his actions harmed others and damaged the integrity of the legal system," which led to the Board's

finding that he had “failed to express genuine remorse or apologize for his actions” and lacked moral qualifications)

Petitioner produced character witnesses, several of whom were former clients and one of whom was a lawyer in Petitioner’s community. These witnesses spoke well of Petitioner’s competence as an attorney, and several witnesses testified that Petitioner was humbled by his experience and sorry for it, though several witnesses referenced Petitioner’s criminal conduct as a “mistake.” While we appreciate that these witnesses took the time and effort to appear on Petitioner’s behalf, we do not accord substantial weight to this evidence, as we have determined that Petitioner is not genuinely remorseful for his criminal misconduct or humbled by his experience. Character testimony cannot create remorse and humility where Petitioner personally has demonstrated none. *See, Staub*, No. 36 DB 2010 (D. Bd. Rpt. 1/9/2018, p. 16) (Board stated that Staub’s character evidence could not “overcome the observed deficiencies in [Staub’s] testimony before the Hearing Committee. The testimony of [Staub’s] witnesses can only serve to bolster a genuine statement of regret and admission of wrongdoing, which is notably absent in this matter.”)

Upon this record, we conclude that Petitioner has failed to meet his reinstatement burden by clear and convincing evidence, as his present shortcomings depict his lack of fitness to resume practice. The totality of the record shows that Petitioner needs additional time to consider his rehabilitative efforts.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Petitioner, Douglas M. Marinos, be denied reinstatement to the practice of law.

The Board further recommends that, pursuant to Rule 218(f), Pa.R.D.E., Petitioner be directed to pay the necessary expenses incurred in the investigation and processing of the Petition for Reinstatement.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 
Jerry M. Lehocky, Member

Date: 06/02/2023